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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 338 (GHW)

5 MOAZU KROMAH, AMARA CHERIF,
6 and MOHAMED SURUR,

7 Defendants.

Arraignment

8
9 New York, N.Y.
June 23, 2021
10 10:20 a.m.

11 Before:

12 HON. GREGORY H. WOODS,

13 District Judge

14 APPEARANCES

15 AUDREY STRAUSS

16 United States Attorney for the
Southern District of New York

17 BY: KAYLAN LASKY

18 Assistant United States Attorney

19 JEFFREY CHABROWE

Attorney for Defendant Kromah

20 GUY OKSENHENDLER

Attorney for Defendant Cherif

21 ANGUS J. BELL

Attorney for Defendant Surur

22 ALSO PRESENT:

23 Lanzay Kandeh, Interpreter (Mandingo)

24 Bachar Alhalabi, Interpreter (Arabic)

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(Case called)

THE DEPUTY CLERK: Counsel, please state your appearances for the record.

MS. LASKY: Good morning, your Honor. Kaylan Lasky, for the government.

THE COURT: Thank you, good morning.

MR. OKSENHENDLER: Good morning, your Honor.

Guy Oksenhendler, for Amara Cherif.

THE COURT: Thank you. Good morning.

MR. BELL: Good morning, Judge.

James Bell, for Mr. Surur.

THE COURT: Thank you.

MR. CHABROWE: Good morning, your Honor.

Jeff Chabrowe, for Moazu Kromah.

THE COURT: Thank you very much. Good morning.

So, first, thank you all for being here. Let me just note for the record that we are using of services of an interpreter for today's proceedings -- actually, two interpreters for today's proceeding. I would like to invite each of the defendants to let me know if you have any difficulty hearing or understanding anything that is said to me or to you or by any of the lawyers during the course of today's proceeding. Again, please do not hesitate to let me know if you have any difficulty hearing or understanding anything

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1 that's said here today.

2 So the purpose of this proceeding is relatively
3 straightforward. I expect to take up two principal pieces of
4 business.

5 First, yesterday I ordered unsealed a superseding
6 indictment in this case, which is numbered S1 19 Cr. 338. So
7 my expectation is to arraign the defendants with respect to
8 that indictment. The purpose of that to make sure that each of
9 you have a copy of the newly unsealed superseding indictment,
10 to inform you of the charges against you, and to take your
11 pleas.

12 After that, I expect to discuss what it is that we
13 will do next in this case. So that's my agenda.

14 Counsel for the United States, is there anything else
15 that I should add to my agenda for this proceeding?

16 MS. LASKY: No, your Honor.

17 THE COURT: Counsel for each of the defendants, let me
18 turn to each of new turn.

19 MR. OKSENHENDLER: No, your Honor.

20 MR. BELL: No, Judge. Thank you.

21 MR. CHABROWE: No, your Honor.

22 THE COURT: Good. Thank you very much.

23 Let me begin.

24 So, for each of the defendants, you have each been
25 named in the superseding indictment that I have described which

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1 is numbered S1 19 Cr. 338. As we proceed I am going to ask
2 each of you certain questions to ensure that you have been
3 provided a copy of the indictment, that you are aware of its
4 terms and conditions.

5 Let me turn first to Mr. Kromah.

6 Mr. Kromah, have you seen a copy of the superseding
7 indictment?

8 DEFENDANT KROMAH: I didn't get a copy.

9 THE COURT: Thank you.

10 Counsel?

11 MR. OKSENHENDLER: Judge, we just received -- this is
12 Mr. Oksenhendler, Mr. Cherif's attorney, but we discussed that
13 I would speak on behalf of counsel.

14 We just received the hard copies of the indictments,
15 but we did get e-mails earlier notifying us that the S1 was
16 filed and understanding the nature of the changes from the S1
17 to the underlying indictment now, the changes don't relate to
18 our clients.

19 We collectively spoke to our clients individually
20 about that fact, so while they didn't see a hard copy of it, we
21 did discuss the contents of the S1 indictment with our clients.

22 THE COURT: Thank you.

23 Has the indictment been translated for them?

24 MS. OKSENHENDLER: I would say no it hasn't been
25 translated word for word. I sometimes speak when I meet with

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1 my client Mr. Cherif in English. He understands that. We have
2 the aid of an interpreter here, so that there's no question
3 about his understanding of the proceeding, but when I explained
4 to him the difference in nature between the two indictments, he
5 indicated to me that he understood explicitly what I was
6 explaining to him.

7 THE COURT: Thank you. So let me ask each of the
8 defendants' counsel the following basic question, which is, are
9 the defendants prepared to be arraigned with respect to the
10 superseding indictment at this time?

11 MS. OKSENHENDLER: Yes, your Honor.

12 THE COURT: Thank you.

13 MR. BELL: As to Mr. Surur, yes, Judge.

14 MR. CHABROWE: Yes, as to Mr. Kromah. Thank you.

15 THE COURT: Thank you.

16 So let me turn to Mr. Kromah.

17 Mr. Kromah, have you had the opportunity to discuss
18 the indictment with your counsel?

19 DEFENDANT KROMAH: We did, your Honor.

20 THE COURT: Thank you. Have you had an opportunity to
21 discuss the superseding indictment with your counsel?

22 DEFENDANT KROMAH: You mean the new indictment, your
23 Honor?

24 THE COURT: Yes.

25 DEFENDANT KROMAH: I haven't seen that before. This

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1 is the first time.

2 THE COURT: Thank you. So my understanding from
3 Mr. Kromah's statement is that he has not seen the indictment,
4 as, counsel, you just described.

5 Counsel, it's not apparent to me that the defendants,
6 or at least Mr. Kromah, is prepared to be arraigned right now
7 in the sense that he's telling me that he has not seen a copy
8 of the indictment. I want to make sure that each of the
9 defendants has had an ample opportunity to review the
10 indictment with their counsel so I can ensure that they
11 understand what it is that they have been charged with in it.

12 Let me turn again to the underlying question in light
13 of Mr. Kromah's responses to my questions. Are the defendants
14 prepared to be arraigned with respect to the charges in the
15 superseding indictment at this time?

16 MS. OKSENHENDLER: Well, then I will only speak for
17 Mr. Cherif, but Mr. Cherif I believe is prepared to plead not
18 guilty to the superseding indictment based on my explanation of
19 the charges in the superseder to him.

20 MR. CHABROWE: Your Honor, I believe Mr. Kromah is as
21 well. I had this discussion with him. I think he just might
22 not be completely understanding in the context of what we
23 already spoke about. If I could have a brief conversation with
24 him.

25 THE COURT: Thank you. That's fine.

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1 Let me do this. I'm happy to step down from the bench
2 to give counsel the opportunity to spend more time with each of
3 the defendants with respect to the superseding indictment. I
4 want to make sure that each of the defendants has seen the
5 superseding indictment and has had an ample opportunity to
6 discuss it with his counsel.

7 I'm happy to step down to provide you, counsel, with
8 additional time to work with them with the assistance of the
9 interpreters who are here today. That's my proposal. Please
10 let me know, counsel, when you're ready for me to take the
11 bench. Again, I will come back momentarily.

12 Please let Ms. Joseph know when you're ready to
13 proceed.

14 (Recess)

15 THE COURT: Thank you, you can be seated. Good.

16 So I am back on the bench after a recess to permit
17 each of the defendants to confer with their respective counsel.
18 What I'd like to do now is to turn back first to Mr. Kromah.

19 Mr. Kromah, have you seen a copy of the new
20 indictment?

21 DEFENDANT KROMAH: Yes, I've seen it.

22 THE COURT: Thank you. Have you had the opportunity
23 to review the indictment and to discuss it with your counsel?

24 DEFENDANT KROMAH: Yes, I did.

25 THE COURT: Thank you.

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1 Mr. Cherif, let me turn to you.

2 Have you seen a copy of the new indictment?

3 DEFENDANT CHERIF: Yes.

4 THE COURT: Thank you. Have you had the opportunity
5 to review with your counsel the new indictment and to discuss
6 it with your counsel?

7 DEFENDANT CHERIF: Yes, I did, your Honor.

8 THE COURT: Thank you. Let me turn now to Mr. Surur.
9 Mr. Surur, have you seen a copy of the new indictment?

10 DEFENDANT SURUR: Yes.

11 THE COURT: Thank you. Have you had the opportunity
12 to review the new indictment with your -- to review the new
13 indictment and to discuss it with your counsel?

14 DEFENDANT SURUR: Yes.

15 THE COURT: Thank you. So let me turn to counsel for
16 the United States.

17 Counsel, can I ask you to please summarize the charges
18 on which each of the defendants are being arraigned today.

19 MS. LASKY: Yes, your Honor.

20 So each of the defendants is being arraigned on the
21 same counts as was present in the initial indictment which was
22 previously filed in this case. The only count that is changing
23 is the final count with respect to the narcotics conspiracy,
24 your Honor, which charges an additional defendant who is not
25 present here today.

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1 Your Honor, I can go through each of the counts, if it
2 would be helpful, your Honor, as to the prior indictment.

3 THE COURT: Thank you. Please do.

4 MS. LASKY: Okay.

5 Your Honor, in Count One, Defendant Kromah, Defendant
6 Cherif, Defendant Surur and Defendant Ahmed are being charged
7 with conspiracy to commit wildlife trafficking. This is in
8 violation, your Honor, of -- one moment -- Title 18 United
9 States Code Sections 371 and 3238.

10 In short, your Honor, they are accused of conspiring
11 from at least in or about December 2012 through at least in or
12 about May 2019 with conspiring with each other and with others
13 known and unknown to transport, distribute, sell and smuggle at
14 least approximately 190 kilograms of rhinoceros horns and at
15 least approximately 10 tons of elephant ivory from various
16 countries in Africa to buyers in the United States and
17 countries located in southeast Asia.

18 In addition, your Honor, in Count Two, the defendants,
19 Defendant Kromah, Defendant Cherif, Defendant Surur and
20 Defendant Ahmed, are accused of wildlife trafficking in
21 violation of the Lacey Act, which involves from in or about
22 February 2018, through in or about March 2018, here in the
23 Southern District and elsewhere, with transporting, selling,
24 receiving, acquiring, purchasing, importing, and exporting
25 wildlife with a market value in excess of \$350 in interstate

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1 commerce in violation of foreign law.

2 And Count Three, your Honor, there's a further
3 wildlife trafficking and violation of the Lacey Act, and that
4 one accuses Defendant Cherif, Defendant Surur and Defendant
5 Ahmed from in or about May 2018 through July 2018 with
6 knowingly importing, exporting, transporting, selling,
7 receiving, acquiring, and purchasing wildlife with a market
8 value in excess of \$350 in interstate and foreign commerce in
9 violation of foreign law.

10 And, finally, Count Four, your Honor, that is the
11 money laundering conspiracy count. In that count Defendants
12 Kromah, Cherif and Defendant Surur are accused of from in or
13 about February 2018 through in or about April 2018, with
14 knowingly and intentionally conspiring to violate Title 18
15 United States Code 1956(a) and various subsections, your Honor.

16 THE COURT: Thank you. I understand that each of the
17 first four counts names each of the three defendants who are
18 here, and that only Mr. Surur is charged in Count Five.

19 Is that right?

20 MS. LASKY: Yes, your Honor.

21 THE COURT: Good. Thank you very much. So I am going
22 to turn to each of the defendants. First I am going to begin
23 with you, Mr. Kromah.

24 Mr. Kromah, you have the right for me to read the
25 indictment to you out loud on the record here now. I would be

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1 happy to do that. You can also waive that right. Would you
2 like for me to read the indictment to you on the record?

3 DEFENDANT KROMAH: No, I understood everything.

4 THE COURT: Thank you.

5 Counsel for Mr. Kromah, do you waive formal reading of
6 the indictment?

7 MR. CHABROWE: Yes, your Honor. I'm so sorry.

8 THE COURT: Thank you. That's fine.

9 Mr. Cherif, let me turn to you.

10 Mr. Cherif, you also have the right for me to read the
11 indictment to you out loud here on the record, and I would be
12 happy to do that. You can also waive that right. Would you
13 like for me to read the indictment to you on the record,
14 Mr. Cherif?

15 DEFENDANT CHERIF: No, I understood everything.

16 THE COURT: Thank you.

17 Counsel for Mr. Cherif, do you waive formal reading of
18 the indictment?

19 MS. OKSENHENDLER: Yes, your Honor. I formally waive
20 the public reading of the indictment.

21 THE COURT: Thank you.

22 Mr. Surur, let me turn to you.

23 Mr. Surur, you have the right for me to read the
24 indictment to you out loud here on the record. I would be
25 happy to do that. You can also waive that right. Would you

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1 like for me to read the indictment to you now on the record?

2 THE INTERPRETER: Judge, I'm having trouble hearing.
3 I'm sorry.

4 THE COURT: Thank you.

5 DEFENDANT SURUR: What are the charges against me.

6 THE COURT: Thank you. Would you like me to read the
7 indictment to you on the record, Mr. Surur?

8 DEFENDANT SURUR: No.

9 THE COURT: Counsel, do you waive formal reading of
10 the indictment?

11 MR. BELL: Yes, your Honor.

12 THE COURT: Thank you. So I am going to ask each of
13 the defendants or all of the defendants to please stand.

14 Would you please stand. Thank you.

15 So, first, Mr. Kromah, do you understand what it is
16 that you have been charged with?

17 DEFENDANT KROMAH: Yes. I understood it, your Honor.

18 THE COURT: Thank you.

19 Mr. Cherif, do you understand what it is that you have
20 been charged with?

21 DEFENDANT CHERIF: Yes, I understood, your Honor.

22 THE COURT: Thank you.

23 Mr. Surur, do you understand what it is that you have
24 been charged with?

25 DEFENDANT SURUR: Yes.

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1 THE COURT: Very good.

2 Count One charges each of you with conspiracy to
3 commit wildlife trafficking in violation of Title 18, United
4 States Code, Sections 371 and 3238.

5 Mr. Kromah, how do you plead to this count?

6 DEFENDANT KROMAH: Can you repeat that, your Honor.

7 THE COURT: How do you plead to that count? Do you
8 plead guilty or not guilty?

9 DEFENDANT KROMAH: Not guilty. I didn't do anything.

10 THE COURT: Thank you.

11 Mr. Cherif, how do you plead to this count?

12 DEFENDANT CHERIF: I'm not guilty.

13 THE COURT: Thank you.

14 Mr. Surur, how do you plead to this count?

15 DEFENDANT SURUR: Not guilty.

16 THE COURT: Thank you. Count Two charges you with
17 wildlife trafficking in violation of 16 United States Code,
18 Sections 3372(a)(2)(A) and 3373(d)(1)(B), Title 18, United
19 States, United States Code, Sections 3238 and 2.

20 Mr. Kromah, how do you plead to this count?

21 DEFENDANT KROMAH: Not guilty, your Honor.

22 THE COURT: Thank you.

23 Mr. Cherif, how do you plead to this count?

24 DEFENDANT CHERIF: I didn't do anything.

25 THE COURT: Thank you. Do I understand that you plead

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1 not guilty to that count, Mr. Cherif?

2 DEFENDANT CHERIF: Not guilty.

3 THE COURT: Thank you.

4 Mr. Surur, how do you plead to this count?

5 DEFENDANT SURUR: Not guilty.

6 THE COURT: Thank you.

7 Count Three charges you each of you with wildlife
8 trafficking in violation of 16 United States Code, Sections
9 3372(a)(2)(A) and 3373(d)(1)(B) at Title 18, United States
10 Code, Sections 3238 and 2.

11 Mr. Kromah, how do you plead to this count?

12 DEFENDANT KROMAH: Not guilty.

13 THE COURT: Thank you.

14 Mr. Cherif, how do you plead to this count?

15 DEFENDANT CHERIF: Not guilty.

16 THE COURT: Thank you.

17 Mr. Surur, how do you plead to this count?

18 DEFENDANT SURUR: Not guilty.

19 THE COURT: Thank you.

20 Count Four charges you with conspiracy to commit money
21 laundering, in violation of Title 18, United States Code,
22 Sections 1956(h) and 3238.

23 Mr. Kromah, how do you plead to this count?

24 DEFENDANT KROMAH: Not guilty.

25 THE COURT: Thank you.

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1 Mr. Cherif, how do you plead to this count?

2 DEFENDANT CHERIF: Not guilty.

3 THE COURT: Thank you.

4 Mr. Surur, how do you plead to this count?

5 DEFENDANT SURUR: Not guilty.

6 THE COURT: Thank you.

7 Mr. Surur only, Count Five charges you with conspiracy
8 to distribute and possess with intent to distribute one
9 kilogram and more of mixtures and substances containing a
10 detectable amount of heroin, in violation of Title 21, United
11 States Code, Section 846; Title 18, United States Code, Section
12 3238.

13 How do you plead to this count, Mr. Surur?

14 DEFENDANT SURUR: Not guilty.

15 THE COURT: Thank you very much. Your pleas of not
16 guilty are accepted. You can be seated. Thank you very much.

17 Good. So let turn to counsel for the United States.

18 We scheduled this as a status conference with respect
19 to this matter.

20 What can you tell me about the status of the case?

21 MS. LASKY: Yes, your Honor.

22 The government is engaged in discussions regarding
23 potential pretrial resolutions with each of the defendants and
24 discovery in general has been produced already. There is a bit
25 of outstanding discovery in the way of ESI that was recently

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1 received from foreign law enforcement. With respect to Mr.
2 Surur's phone, his entire extraction was made available to
3 counsel and will be produced promptly when a drive is received.

4 The agents are still going through some of the ESI
5 that is outstanding on which there is a bit of a delay just
6 because it needs to be translated with respect to identified
7 data, but once that is done, then discovery will be completely
8 produced in this case, your Honor.

9 THE COURT: Thank you. Do you have a sense of the
10 timeline for completion of that production?

11 MS. LASKY: I unfortunately don't, your Honor. Based
12 on it being recently produced and the translation issues, it's
13 a bit hard to estimate, but we will work through it as
14 expeditiously as possible, your Honor.

15 THE COURT: Thank you. Does this apply only to
16 electronic device of Mr. Surur or does this apply to any of the
17 other defendants?

18 MS. LASKY: Your Honor, it's primarily Mr. Surur, but
19 there is also additional ESI that we are reviewing and that we
20 are trying to determine if there is any additional information
21 to produce with respect to that. We received it from
22 international authorities, so based on international shipping
23 delays and the translation issues, it is taking a bit more time
24 with respect to that.

25 THE COURT: Thank you.

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1 So, counsel, is there any update that you can provide
2 the Court regarding the status of the defendants who are not
3 yet present here?

4 MS. LASKY: Your Honor, with respect to the unsealing
5 that was recently requested by the government of the
6 superseder, the hope there is for the unsealing to assist law
7 enforcement with attempting to locate and arrest that
8 defendant. I do not have additional updates with respect to
9 Mr. Ahmed.

10 THE COURT: Thank you. Fine. Understood.

11 Counsel for each of the defendants, I would like to
12 turn to you and ask if there is any information that you would
13 like to share with the Court.

14 Then would I like to hear from all of you what your
15 view is regarding the appropriate next steps in the case.

16 Mr. Oksenhendler, please go ahead.

17 MS. OKSENHENDLER: Thank you, your Honor.

18 On behalf of defense counsel we have all recently
19 received a little bit more discovery. I think there were two
20 batches of discovery that have recently been turned over by the
21 government. I expect to have a little more discovery, and then
22 we need to get it to our clients.

23 Plea offers have been extended to all three of our
24 clients, your Honor, and we have all engaged in plea
25 negotiations with the government. We are proceeding ahead in

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1 trying to resolve the case so that it is disposed pretrial,
2 although that's no guarantee, but we all are endeavoring to
3 find that common ground with the government to resolve the
4 case.

5 I know that the government sent a letter to each of us
6 yesterday suggesting perhaps that we put the case over for one
7 further status conference, and we would agree with the
8 government with regard to that point, but we would ask that the
9 Court give us until early September to come back for the status
10 conference rather than the 30-day request that the government
11 had suggested.

12 So we would consent to an exclusion of time, and if
13 your Honor was so inclined to grant an adjournment for one
14 further status conference before the Court were to set a motion
15 schedule and a trial schedule in this matter in hopes of using
16 the summer to review the additional discovery, to further
17 discussions with the government with regard to pleas, and to
18 try and resolve the case before another status conference.

19 THE COURT: Thank you. Is that the position of all
20 three defendants?

21 Let me turn to counsel for Mr. Kromah and Mr. Surur.
22 Counsel?

23 MR. BELL: Yes, Judge.

24 MR. CHABROWE: Yes, your Honor.

25 THE COURT: Good. Thank you very much.

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1 Counsel for the United States, any objection to the
2 defendants' proposal here?

3 MS. LASKY: No, your Honor.

4 THE COURT: Thank you. So I am happy to adopt that
5 proposal and to set another status conference for this case for
6 sometime in September.

7 Ms. Joseph, can I ask you to please propose a date.

8 THE DEPUTY CLERK: Wednesday, September 8, 2021, at
9 11:00 a.m.

10 THE COURT: Thank you. Counsel for the United States,
11 does that date and time work for you?

12 MS. LASKY: Yes, your Honor.

13 THE COURT: Thank you.

14 Let me ask counsel for each of the defendants, does
15 that date and time work for each of you?

16 First counsel for Mr. Kromah?

17 MR. CHABROWE: Yes, your Honor. That's fine.

18 THE COURT: Thank you.

19 Mr. Counsel for Mr. Cherif?

20 MS. OKSENHENDLER: Yes, your Honor.

21 THE COURT: Thank you.

22 Counsel for Mr. Surur?

23 MR. BELL: No objection.

24 THE COURT: Very good. Thank you very much.

25 Counsel for the United States, is there an application

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1 to exclude time through our next conference date?

2 MS. LASKY: Yes, your Honor. The government
3 respectfully submits that doing so would allow the parties to
4 engage in further pretrial discussions and also attend to the
5 remaining discovery in this matter.

6 THE COURT: Very good.

7 Let me turn to each of the defendants' counsel.

8 Counsel for Mr. Kromah, do you consent to the
9 exclusion of time?

10 MR. CHABROWE: No objection, your Honor.

11 THE COURT: Thank you.

12 Counsel for Mr. Cherif, do you consent to the
13 exclusion of time?

14 MS. OKSENHENDLER: Yes, your Honor, I consent to the
15 exclusion of time.

16 THE COURT: Thank you.

17 Counsel for Mr. Surur, do you consent to the exclusion
18 of time?

19 MR. BELL: Yes, Judge. Thank you.

20 THE COURT: Thank you very much.

21 I will exclude time from today until September 8,
22 2021. After balancing the factors specified in 18 United
23 States Code Section 3161(h)(7), I find that the ends of justice
24 served by excluding such time outweigh the best interest of the
25 public and each of the defendants in a speedy trial, because it

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1 will allow time for continued production of discovery and
2 review of these materials by each of the defendants and time
3 for the parties to negotiate a potential pretrial disposition
4 of the case.

5 Counsel, in the event that the case has not been
6 resolved by the time of that conference as to any defendant, I
7 do expect that we will take that opportunity to set a motion
8 schedule and potentially a trial date for the case.

9 Very good.

10 Anything else that we need to take up now before we
11 adjourn?

12 First, counsel for the government?

13 MS. LASKY: Not from the government. Thank you, your
14 Honor.

15 THE COURT: Thank you.

16 Counsel for Mr. Kromah?

17 MR. CHABROWE: No.

18 THE COURT: Thank you.

19 Counsel for Mr. Cherif.

20 MS. OKSENHENDLER: Yes, your Honor.

21 Just one question?

22 THE COURT: Please.

23 MS. OKSENHENDLER: Should we reach a disposition in
24 the case, would you prefer to take the plea or would you refer
25 it to magistrate court.

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1 THE COURT: Thank you. By default I expect that I
2 will take the plea unless I am not here or on trial.

3 MS. OKSENHENDLER: Very well, Judge.

4 THE COURT: Thank you.

5 Counsel for Mr. Surur?

6 MR. BELL: Nothing further.

7 THE COURT: Thank you very much.

8 Thank you to each of the defendants.

9 This proceeding is adjourned.

10 MS. OKSENHENDLER: Have a good day, Judge.

11 (Adjourned)